

In the Matter of Merchant Mariner's Document No. Z-208280-D7 and  
all other Seaman Documents

Issued to: Morris Joseph Danzey, Jr.

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1398

Morris Joseph Danzey, Jr.

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 2 November 1962, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for four months outright plus three months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as Deck Maintenance on board the United States SS KATHRYN under authority of the document above described, on or about 4 August 1962, Appellant assaulted and battered a fellow crew member with his fists.

The Examiner conducted a joint hearing during which Appellant, who acted as his own counsel, pleaded guilty to the charge and specification. The seaman allegedly assaulted by Appellant also pleaded guilty to assault and battery on Appellant.

The grounds asserted on appeal are that the order of the Examiner is too severe and that the Appellant will not be able "to make a living ashore as the life of a seaman is the only trade I know".

OPINION

Appellant's document was suspended for four months outright plus three months on twelve months' probation. This order includes the violation of the probation in an order of one month outright plus three months on twelve months' probation entered on 31 May 1962 at New Orleans for failure to perform duties due to intoxication. (Appellant was also found guilty of the latter offense in 1960.) Therefore, the Examiner added only a one month suspension to the three months resulting from the violation of probation.

Despite Appellant's plea of guilty, a review of the record

indicates that this was a case of mutual combat which is a lesser included offense in the offense of assault and battery. In effect, Appellant pleaded guilty to having participated in a fist fight. The finding that Appellant was guilty of assault and battery is not

deemed prejudicial to Appellant, since normally an assault and battery finding would result in a longer suspension. Therefore, Appellant's allegation that the order of the Examiner is too severe is not tenable regardless of the lack of evidence of injuries. The plea of hardship is rejected because it is not material to the proceedings against his document. This factor should have been considered by the Appellant before he became involved in the fist fight.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 2 November 1962, is AFFIRMED.

D. McG. MORRISON  
Vice Admiral, United States Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 24th day of June 1963.